

PORT OF WILLAPA HARBOR
Pacific County, Washington
January 1, 1994 Through December 31, 1995

Schedule Of Findings

1. The Port Should Provide Medical Benefits Only To Those Eligible

On September 11, 1995, the Port of Willapa Harbor Commission agreed to provide medical benefits to its attorney and his family, in-lieu-of the attorney's monthly retainer fee. The attorney and his dependents were included in the port's policy with the Health Care Authority for medical benefits.

The minutes of the commission meeting on this date noted that the attorney had received advice from the State Auditor's Office and the Attorney General that "coverage is to be provided for employees only." Despite this advice, the commission approved the granting of medical benefits, subject to a supplementary agreement with the attorney. This supplementary agreement was an indemnification of the port should the provision of medical benefits be found to be invalid and required the attorney to reimburse the port for any costs incurred.

RCW 41.04.180 states in part:

Any . . . municipality, or other political subdivision of the state
. . . may . . . provide for all or a part of hospitalization and medical aid
for its **employees and their dependents** . . . (Emphasis added.)

RCW 53.08.170 states in part:

. . . any district providing insurance benefits for its employees . . . may
provide health . . . insurance with coverage not to exceed that provided
district employees . . . for its commissioners . . .

Also, the port's personnel policies, as adopted by Resolution 714-92, state in part:

A part-time employee will not be eligible for benefits other than
required by law.

The statutes referenced above allow provision of medical benefits to port employees and commissioners. The attorney is not a port employee, but an independent contractor, under definitions established by the Internal Revenue Service. Other than commissioners, we find no statutory authority for nonemployees to receive employee benefits. Additionally, the port's personnel policies prohibit extension of discretionary benefits to other than full-time employees.

We recommend the port discontinue providing the port attorney medical insurance, and limit benefits to those employees meeting port personnel policy requirements.